

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

Michelle C. Zeiter, individually and as
Special Administrator for Estate of
Michael Buchna; Jennifer C. Beam,
individually, and as Special Administrator
for Estate of Michael Buchna,

Plaintiffs,

v.

Walmart, Inc., a foreign corporation d/b/a
Walmart Supercenter #3351; and Walmart
Stores, Inc., a foreign corporation,

Defendants.

Case No. 2:21-cv-0061-RFB-DJA

Order

This is a slip-and-fall action arising out of a fall Michael Buchna sustained while shopping at Defendants' store. Plaintiffs—appointed special administrators for Buchna's estate after he passed away—sue Defendants for damages, asserting claims for negligence and negligent hiring training, supervision, and retention. Plaintiffs now move to amend their complaint to add a claim for wrongful death and punitive damages. (ECF No. 23 at 151-160). Defendants did not file a response.

Because courts in the Ninth Circuit grant leave to amend with liberality and because Defendant did not respond, the Court grants Plaintiffs' motion to amend. Under Rule 15(a)(2) of the Federal Rules of Civil Procedure, "[t]he court should freely give leave [to amend] when justice so requires." Fed. R. Civ. P. 15(a)(2). There is a strong public policy in favor of permitting amendment. *Bowles v. Reade*, 198 F.3d 752, 757 (9th Cir. 1999). The Ninth Circuit has made clear that courts should apply Rule 15(a) with "extreme liberality." *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003). Additionally, under Local Rule 7-2(d), the failure of an opposing party to file points and authorities in response to any motion constitutes a consent to the granting of the motion. LR 7-2(d). Considering the strong public policy in favor

1 of permitting amendment, the Ninth Circuit's caution to apply Rule 15(a) with extreme liberality,
2 and that Defendants did not file a response, granting leave to amend is appropriate here. The
3 Court thus grants Plaintiffs' motion to amend.

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5 **IT IS THEREFORE ORDERED** that Plaintiffs' motion to amend (ECF No. 23) is
6 **granted**. Plaintiffs shall file and serve their amended complaint as required under Local Rule 15-
7 1.

8 DATED: March 2, 2022



DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE